

87th Legislative Session – 2012

Committee: Senate Judiciary

Thursday, February 09, 2012

P - Present
E - Excused
A - Absent

Roll Call

P Vehle
P Nygaard
P Hunhoff (Jean)
P Buhl
P Begalka
P Cutler, Vice-Chair
P Tieszen, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Craig Tieszen, Chair.

MOTION: TO APPROVE THE MINUTES OF TUESDAY, FEBRUARY 7, 2012

Moved by: Vehle
Second by: Hunhoff (Jean)
Action: Prevailed by voice vote.

SB 52: provide for point of sale collection of the prepaid wireless 911 emergency surcharge.

Presented by: Jenna Howell, Department of Public Safety

MOTION: TO TABLE SB 52

Moved by: Vehle
Second by: Nygaard
Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Begalka, Cutler, Tieszen

Excused: Buhl

SB 183: establish the elements of the offense of juvenile sexting and to provide a penalty therefor.

SB 183 was previously heard on Tuesday, February 7, 2012. Testimony continued.

Proponents: Jesse Weins, self, Mitchell
Paul Bachand, SD State's Attorneys Association
Cindy Flakoll, Concerned Women For America

Opponents: Lindsey Riter-Rapp, SD Association of Criminal Defense Lawyers (Handouts: #1)
Rebuttal: Senator Mike Vehle

MOTION: DO PASS SB 183

Moved by: Nygaard
Second by: Vehle
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

SB 146: provide for an affirmative defense of compulsion for the crime of prostitution.

Presented by: Senator Joni Cutler (Handouts: #2)
Proponents: Tiffany Campbell, American Civil Liberties Union of SD
Lindsey Riter-Rapp, SD Association of Criminal Defense Lawyers

MOTION: DO PASS SB 146

Moved by: Nygaard
Second by: Buhl
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

SB 148: revise certain provisions relating to battery committed against infants and unborn children.

Presented by: Senator Joni Cutler
Proponents: Linda Johnson, SD Right to Life

Provided information: Reuben Bezpaletz, Legislative Research Council

MOTION: DO PASS SB 148

Moved by: Vehle
Second by: Begalka
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Vehle, Nygaard, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

MOTION: PLACE SB 148 ON CONSENT CALENDAR

Moved by: Nygaard
Second by: Vehle
Action: Prevailed by voice vote.

Testimony on HB 1055 and SB 60 was heard simultaneously. Senator Tieszen recessed the meeting at 9:50 a.m. and reconvened the meeting at noon. Testimony continued on these two bills until 1:00 pm.

HB 1055: allow for joint physical custody orders after a court awards joint legal custody if in the best interest of the child.

Presented by: Senator Joni Cutler
Proponents: Representative Melissa Magstadt
Casey Wilson, self, Flandreau (Handouts: #4)
Jay Miles, self, Egan
Kris Venner, self, Pierre
Dianna Miller, SD Network Against Family Violence and Sexual Assault
Greg Boris, South Dakota Voices for Children
Tom Barnett, State Bar Association of South Dakota
Opponents: Representative Phil Jensen
Senator Dan Lederman

SB 60: provide for the award of joint physical custody of children under certain circumstances.

Presented by: Senator Tim Begalka (Handouts: #3)
Proponents: Representative Melissa Magstadt
Casey Wilson, self, Flandreau (Handouts: #4)
Troy Wanner, self, Dell Rapids
Jay Miles, self, Egan

Rusty Toupal, self, Huron
Kris Venner, self, Pierre
Darla Wilson, self, Colman (Handouts: #5)
Dave Owens, self, Volga
Tom English, self, Hurley
Matt Doyle, self, Brookings
Wanda Promes, self, Sioux Falls
Representative Phil Jensen
Senator Dan Lederman
Opponents: Dianna Miller, SD Network Against Family Violence and Sexual Assault
Greg Boris, South Dakota Voices for Children
Tom Barnett, State Bar Association of South Dakota

SB 10: revise certain provisions pertaining to boating while under the influence.

Proponents: Ken Meyer, Lake County State's Attorney, self
Jeff Banks, Beadle County Deputy State's Attorney, self

Senator Tieszen recessed the meeting at 1:00 p.m. and reconvened the meeting at 4:00 p.m.

THE CHAIR DEFERRED SB 10, SB 172, and SB 181 UNTIL MONDAY,
FEBRUARY 13, 2012

The hearings on HB 1055 and SB 60 ended with Senator Cutler (Handouts: #6, #7) providing closing remarks on HB 1055.

MOTION: DO PASS SB 60

Moved by: Nygaard
Second by: Begalka
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DO PASS HB 1055

Moved by: Buhl
Second by: Vehle
Action: Prevailed by roll call vote. (6-1-0-0)

Voting Yes: Vehle, Hunhoff (Jean), Buhl, Begalka, Cutler, Tieszen

Voting No: Nygaard

ORIGINAL MOTION: DO PASS SB 60

Moved by: Nygaard
Second by: Begalka
Action: Failed by roll call vote. (2-5-0-0)

Voting Yes: Nygaard, Begalka

Voting No: Vehle, Hunhoff (Jean), Buhl, Cutler, Tieszen

MOTION: DEFER SB 60 TO THE 41ST LEGISLATIVE DAY

Moved by: Hunhoff (Jean)
Second by: Buhl
Action: Prevailed by roll call vote. (5-2-0-0)

Voting Yes: Vehle, Hunhoff (Jean), Buhl, Cutler, Tieszen

Voting No: Nygaard, Begalka

MOTION: ADJOURN

Moved by: Buhl
Second by: Vehle
Action: Prevailed by voice vote.

Rena Ortbahn
Committee Secretary

Craig Tieszen, Chair